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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/743,885	10/22/2001	Jantina Creemers	U 013212-4	8619
140	7590	06/30/2004	EXAMINER BAUM, STUART F	
LADAS & PARRY 26 WEST 61ST STREET NEW YORK, NY 10023			ART UNIT 1638	
			PAPER NUMBER	

DATE MAILED: 06/30/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/743,885

Applicant(s)

CREEMERS ET AL.

Examiner

Stuart F. Baum

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-30 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 15-20, and 23, 25-27 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim can not depend on a multiple dependent claim. See MPEP § 608.01(n). For reasons of compact prosecution, a restriction requirement has been set forth but Applicant is requested to correct the improper multiple dependent claims.

Election/Restrictions

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-3, 22-24 and 26 drawn to an isolated promoter sequence, and host cell transformed therewith .

Group II, claim(s) 4-7, 10-19, 22-28, drawn to an isolated DNA sequence encoding a protein, a recombinant DNA molecule comprising said isolated DNA sequence, a process for producing a transgenic plant exhibiting a modified nectar or modified nectary development and process for producing honey from said modified nectar, and host cell and plant transformed therewith.

Group III, claim(s) 8-9, 22-24, and 26, drawn to an isolated DNA sequence encoding a signal peptide and host cell transformed therewith.

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Group IV, claim(s) 20-21, drawn to a process for producing a recombinant gene product from honey.

Group V, claim(s) 29-30, drawn to honey from nectar from transgenic plants.

3. The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The special technical feature of Group I which is the isolated promoter is not shared by the isolated DNA sequence encoding a protein and recombinant DNA molecule of Group II, which is not shared by the isolated DNA sequence encoding a signal peptide of Group III, which is not shared by the process for producing a recombinant gene product from honey of Group IV or which is not shared by the product of Group V
4. The special technical feature of Group II which is the isolated DNA sequence encoding a protein is not shared by the isolated DNA sequence encoding a signal peptide of Group III, which is not shared by the process for producing a recombinant gene product from honey of Group IV or which is not shared by the product of Group V.
5. The special technical feature of the isolated DNA sequence encoding a signal peptide of Group III is not shared by the process for producing a recombinant gene product from honey of Group IV or which is not shared by the product of Group V.
6. The special technical feature of the process for producing a recombinant gene product from honey of Group IV is not shared by the product of Group V.

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7. Because these inventions are distinct for the reasons given above, have acquired a separate status in the art as shown by the literature and sequence searches required for each of the Groups are not required for another of the Groups, restriction for examination purposes as indicated is proper.

8. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

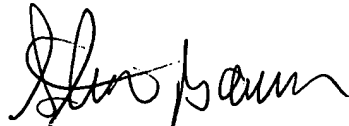
9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stuart F. Baum whose telephone number is 571-272-0792. The examiner can normally be reached on M-F 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached on 571-272-0804. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

A handwritten signature in black ink, appearing to read 'Stuart F. Baum', is written over the printed name.

Stuart F. Baum Ph.D.

Patent Examiner

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June 25, 2004